

SUBJECT: Banning transportation, storage, disposal of high-level radioactive waste

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 6 ayes — Landgraf, Dominguez, Dean, Kacal, Kuempel, Morrison

1 nay — Goodwin

2 absent — Morales Shaw, Reynolds

WITNESSES: For — (*Registered, but did not testify*: Thomas Parkinson)

Against — Susybelle Gosslee, League of Women Voters of Texas; Tom "Smitty" Smith, Public Citizens Texas Office; Karen Hadden, SEED Coalition.org; Carolyn Croom; Beki Halpin; Richard Halpin; (*Registered, but did not testify*: Dale Bulla; Pat Bulla; Stephanie Hoffman; John Tate)

On — Cyrus Reed, Lone Star Chapter Sierra Club; Ashley Forbes, Texas Commission on Environmental Quality-Radioactive Materials Division; (*Registered, but did not testify*: Erika Crespo, Texas Commission on Environmental Quality-Water Quality Division)

BACKGROUND: Health and Safety Code sec. 401.202 allows the Texas Commission on Environmental Quality to grant one license to a facility for the disposal of "compact waste," or low-level radioactive waste.

Under 42 U.S.C. sec. 10101, the term "high-level radioactive waste" means the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations and other highly radioactive material that the Nuclear Regulatory Commission determines requires permanent isolation. "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

DIGEST: HB 7 would prohibit certain transportation, disposal, or storage of high-level radioactive waste in the state and restrict the permitting of high-level radioactive waste storage facilities. "High-level radioactive waste" would have the meaning assigned by federal law (42 U.S.C. sec. 10101) and would include spent nuclear fuel.

The bill would prohibit a person from transporting or arranging for the transportation of high-level radioactive waste on the highways or railways in the state.

A person, including the compact waste disposal facility license holder, could not dispose of or store high-level radioactive waste in the state, with the exception of storage at the site of currently or formerly operating nuclear power reactors and research and test reactors located on university campuses.

The Texas Commission on Environmental Quality could not issue a general construction permit, approve a Stormwater Pollution Prevention Plan, or issue a permit under the Texas Pollutant Discharge Elimination System Program for the construction or operation of a facility that was licensed for the storage of high-level radioactive waste by the U.S. Nuclear Regulatory Commission. The bill would except a permit for a facility located at the site of currently or formerly operating nuclear power reactors and research and test reactors located on university campuses. These provisions would apply only to an application or permit amendment submitted on or after the bill's effective date.

If any provisions of this bill or its application were held invalid, the invalidity would not affect other provisions or applications of the bill that could be given effect without the invalid provisions or application. To this end, the provisions of the bill would be severable.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect 91 days after the last day of the legislative session.

**SUPPORTERS
SAY:**

HB 7 would enact the will of Texas residents by banning the transportation, storage, and disposal of dangerous high-level radioactive waste in the state. There is a single low-level radioactive waste disposal facility in the state located in Andrews County, which benefits from jobs and other economic activity generated by the facility. However, the federal Nuclear Regulatory Commission (NRC) currently is evaluating an application that would authorize the storage of spent nuclear fuel, or high-level radioactive waste, in the county. This could jeopardize public health and safety and the environment of the area. Any release of high-level radioactive material would contaminate the low-level facility and lead to lost revenues for both the county and the state.

HB 7 would support the residents of Andrews County, where the commissioners court unanimously passed a resolution expressing opposition to the storage of high-level radioactive waste, by prohibiting in-state transportation, storage, and disposal of such waste. This would protect not only Andrews County, but also other areas of the state through which high-level radioactive waste could be transported, putting those areas at risk from potential leaks.

The bill would prohibit the Texas Commission on Environmental Quality (TCEQ) from issuing permits for the construction or operation of a high-level radioactive waste facility, so even if such a facility were to be approved by NRC, it would be prevented from operating and subjected to TCEQ's existing enforcement measures. The bill also would exempt existing nuclear reactors to ensure that generators providing power for the state and university reactors continued to store waste on site.

Those claiming a high-level radioactive waste facility would be safe and secure have not considered all the possible impacts. NRC has conducted an environmental impact study regarding the proposed facility, but no study has been done to show the potential impact of storing high-level radioactive waste on oil and gas operations in the Permian Basin, one of the largest producing oilfields in the world. It is in the best interest of the state to protect the Permian Basin, which employs thousands of Texans and generates billions of dollars for the state, including transportation and

education funds. Such a facility could make the area a target for terrorism and threaten this significant energy resource.

While some have made calls to also ban the transportation, storage, and disposal of greater-than-class C (GTCC) waste, that type is considered to be low-level radioactive waste and often is generated by oil and gas production activities. GTCC waste already has been stored in the low-level waste facility in Andrews County for years and helps drive economic activity. Stakeholders may continue to discuss which levels of waste are appropriate to be stored in the state, but it is imperative that HB 7 be enacted quickly to prevent NRC from licensing a high-level radioactive waste facility in Andrews County. Additionally, the bill must be germane to the governor's call for the special session, which only references high-level radioactive waste.

CRITICS
SAY:

The Legislature should not limit the storage of radioactive waste in Andrews County. The Nuclear Regulatory Commission (NRC) will ensure that any proposed high-level radioactive waste interim storage facility would be approved based on its merits. The nation would benefit from a centrally located interim storage facility in Texas, and such a facility also would be advantageous to Texans by bringing jobs and industry to the community. There is no reason to think a federally approved facility would not store spent nuclear fuel rods in a safe manner, as there have not been issues with storing this kind of waste in existing facilities. Significant time and money has been spent to ensure that a Texas facility would meet all safety standards for the public, workers, and the environment. NRC released an environmental impact report concluding that the proposed interim storage facility would not have a long-term impact to the land resources in the area.

OTHER
CRITICS
SAY:

HB 7 would not go far enough to ban high-level radioactive waste in the state. It should prohibit the transportation, disposal, and storage of greater-than-class C (GTCC) waste. While it may not meet the legal definition of high-level radioactive waste, GTCC waste is as dangerous and its storage in the state could increase risks to Texas residents and the environment.

Certain provisions of the bill also should be clarified to prevent loopholes. It should be clear that the ban on high-level waste applied to all private and public entities and prevent facilities from submitting a partial application to avoid the ban. The bill also should have stronger enforcement measures, such as specific fines and penalties."